



UNITED STATES PATENT AND TRADEMARK OFFICE

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Elec  
7/5/02

In re application of:

SETTE et al.

Appl. No. 09/641,528

Filed: August 15, 2000

For: **Inducing Cellular Immune  
Responses to Human  
Papillomavirus Using Peptide and  
Nucleic Acid Compositions**

Confirmation No. 6891

Art Unit: 1648

Examiner: Hill, M.G.

Atty. Docket: 2060.0100001/EKS/HCC

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### **Reply To Restriction Requirement and Election of Species**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

In reply to the Office Action dated **December 19, 2001**, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of Group I, represented by claims 1-10, 14-24, 28-33, and 37. In response to the requirement for an election of species, Applicants provisionally elect the species of peptide ATLERTEVY (SEQ ID NO:31040), as required by the Office Action. Claims 1-37 read on the elected species. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

Applicants reserve the right to claim additional species in the event that a generic claim thereto is found allowable in accordance with 37 C.F.R. § 1.141(a).

With respect to the division of the claims into two groups and the reasons stated therefor, Applicants respectfully traverse. Groups I and II are related as between peptide compositions and peptide compositions containing an antigen presenting cell. Even assuming, *arguendo*, that Groups I and II represent distinct or independent inventions,

Applicants submit that to search and examine the subject matter of the groups together would not be a serious burden on the Examiner. Applicants submit that the peptide compositions and peptide compositions containing antigen presenting cells share common functions. The common functions lessen the burden on the Examiner as there will be significant overlap in the search and examination of cellular and peptide components comprising these compositions. This common utility thereby makes it a simple matter for the Examiner to search and examine publications disclosing the peptide compositions. The M.P.E.P. § 803, states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Thus, in view of the M.P.E.P. § 803, Applicants respectfully request that the claims of Groups I and II be searched and examined in the captioned application. Applicants retain the right to petition from the Restriction Requirement under 37 C.F.R. § 1.144. Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are

hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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Date: June 19, 2002

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